



DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Extension Package for Labor Condition Application for H-1B, H-1B1, and E-3 Nonimmigrants and Nonimmigrant Worker Information Form

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: The Department of Labor’s (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled “Labor Condition Application for H-1B, H-1B1, and E-3 Nonimmigrants” and “Nonimmigrant Worker Information Form”; and related information collection and retention requirements (OMB Control Number 1205-0310), which covers Form ETA-9035, Form ETA-9035E, Form ETA-9035 & 9035E Appendix A, Form ETA-9035CP, and Form WH-4. This action seeks an extension of the forms without changes. This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained for free by contacting Brian Pasternak, Administrator, Office of Foreign Labor Certification, by telephone at 202-693-8200 (this is not a toll-free number), TTY 1-877-889-5627 (this is not a toll-free number), or by email at ETA.OFLC.Forms@dol.gov.

Submit written comments about, or requests for a copy of, this ICR by email at ETA.OFLC.Forms@dol.gov.

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, by telephone at 202-693-8200 (this is not a toll-free number) or by email at ETA.OFLC.Forms@dol.gov.

AUTHORITY: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION:

DOL, in its continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program ensures the public provides all necessary data in the desired format, the reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

This information collection is required under sections 212(n) and (t) and 214(c) of the Immigration and Nationality Act (INA) and 8 U.S.C. 1182(n) and (t), and 8 U.S.C. 1184(c). DOL and the Department of Homeland Security have promulgated regulations to implement the INA's requirements at 20 CFR 655 Subparts H and I, and 8 CFR 214.2(h)(4), respectively. The INA mandates that no H-1B, H-1B1 or E-3 temporary nonimmigrant worker may enter the United States (U.S.) to perform work in a specialty occupation or as a fashion model of distinguished merit and ability unless the U.S. employer makes certain attestations to the Secretary of Labor (Secretary). The employer must attest that the working conditions for the nonimmigrant worker will not adversely affect the working conditions of similarly employed U.S. workers; that it will offer a wage that is at least the higher of the prevailing wage for the occupational classification in the area of employment or the actual wage paid to all other individuals with similar

experience and qualifications for the specific employment in question; that there is no strike or lockout in the course of a labor dispute in the occupational classification at the place of employment; and that it has provided notice of the filing of the LCA. In addition, further attestations are generally required for H-1B dependent employers and willful violators. The current ICR expires October 31, 2021. DOL seeks to extend, without changes, the validity of forms ETA-9035, ETA-9035E, ETA-9035 & 9035E Appendix A, ETA-9035CP Instructions, and WH-4.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection unless OMB, under the PRA, approves it and the collection tool displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the ADDRESSES section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205-0310.

Submitted comments will also be a matter of public record for this ICR and posted on the Internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have

practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

Agency: DOL-ETA.

Type of Review: Extension Without Changes.

Title of Collection: Labor Condition Application for H-1B, H-1B1, and E-3 Non-immigrants; and Nonimmigrant Worker Information Form.

Forms: ETA-9035, ETA-9035E, ETA-9035 & 9035E Appendix A, ETA-9035CP, and WH-4

OMB Control Number: 1205-0310.

Affected Public: Individuals or Households; Private Sector (businesses or other for profits); Not-for-profit Institutions; Government, State, Local and Tribal Governments.

Total Estimated Number of Annual Respondents: 141,040.

Annual Frequency: On Occasion.

Total Estimated Number of Annual Responses: 641,049.

Estimated Time per Response: Varies by form.

Total Estimated Annual Time Burden: 836,686 hours.

Total Estimated Annual Other Costs Burden: \$94,880.

SIGNED:

Suzan G. LeVine,

Principal Deputy Assistant Secretary for Employment and Training, Labor.

